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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 730, 747, 748 and 762

[Docket No. 160303182-6999-02]

RIN 0694-AG89

Amendment to the Export Administration Regulations: Removal of Special Iraq Reconstruction License

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY:

In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by removing the Special Iraq Reconstruction License (SIRL) from the EAR. This action furthers the objectives of the Retrospective Regulatory Review Initiative that directs BIS and other federal agencies to streamline regulations and reduce unnecessary regulatory burdens on the public. Specifically, the SIRL is outdated and seldom used by exporters, who now have more efficient options for exports and reexports to Iraq and transfers (in-country) in Iraq. This rule also makes conforming changes.

DATES: This rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Thomas Andrukonis, Director, Export Management and Compliance Division, Office of Exporter Services, Bureau of Industry and Security, by telephone at (202) 482-6396 or by email at Thomas.Andrukonis@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) issues this final rule to remove the Special Iraq Reconstruction License (SIRL) provisions from the Export Administration Regulations (EAR), consistent with the Retrospective Regulatory Review Initiative. In the preamble to the proposed rule published in the Federal Register on June 7, 2016 (81 FR 36481) (hereinafter “the June 7 proposed rule” or “the June 7 rule”), BIS reviewed the origins of the SIRL, established in 2004 (69 FR 46070, July 30, 2004) to supplement options to facilitate exports and reexports to Iraq and transfers within Iraq of items in furtherance of civil reconstruction and other projects in Iraq funded by specified entities, including the United States government. BIS also reviewed the record of related transactions since the SIRL was established.

The record indicates that exporters supplying items used in support of the civil reconstruction efforts in Iraq have not relied on the SIRL to advance those efforts, apparently because of its complexity and narrowness. Further, since 2004, BIS processed only three applications for the SIRL and approved only one, as compared to over 400 approved individual license applications for the export of items to Iraq between 2012 and 2015. Finally, with the implementation of updates to the EAR, the relative advantages of the SIRL have been offset by

changes to individual licenses and other types of authorizations offered by BIS that provide less complex alternatives to the SIRL.

Thus, consistent with the President's Retrospective Regulatory Review Initiative to streamline regulations and reduce unnecessary regulatory burdens on the public (see "Improving Regulatory Review" (Executive Order 13563 of January 18, 2011)), BIS concluded that the SIRL proved not to be useful.

BIS received no comments in response to the June 7 rule. BIS, therefore, publishes in final form the amendments to the EAR to remove the SIRL as described initially in the June 7 rule.

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 4, 2016, 81 FR 52587 (August 8, 2016), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.
2. This rule amends collections previously approved by the Office of Management and Budget (OMB) under Control Numbers 0694-0088, “Simplified Network Application Processing + System (SNAP+) and the Multi-Purpose Application,” which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS-748; and 0694-0137, “License Exemptions and Exclusions.”

The total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and the aforementioned OMB Control Numbers are not expected to decrease significantly as a result of this removal of part 747 of the EAR because of the infrequent use of part 747 of the EAR by exporters.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The Chief Counsel for Regulation at the Department of Commerce certified to the Chief Counsel for Advocacy at the Small Business Administration that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis was published in the proposed rule and is not repeated here. BIS received no comments, which means there were no comments that addressed the economic impact of this rule on small entities. Therefore, a final regulatory flexibility analysis is not required and one was not prepared.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Part 747

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

Accordingly, under the authority of 50 U.S.C. 1701 *et seq.*, parts 730, 747, 748 and 762 of the Export Administration Regulations (15 CFR parts 730 – 774) are amended as follows:

PART 730 – [AMENDED]

1. The authority citation for part 730 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; ; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of

November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016); Notice of May 3, 2016, 81 FR 27293 (May 5, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016); Notice of September 15, 2016, 81 FR 64343 (September 19, 2016).

2. Supplement No. 1 to Part 730 is amended by revising the entry for Collection number “0694-0129”. The revision reads as follows:

**SUPPLEMENT NO. 1 TO PART 730 – INFORMATION COLLECTION
REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL
NUMBERS**

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Collection number	Title	Reference in the EAR
* * * * *	* *	
0694-0129	Export and Reexport Controls For Iraq	§§ 732.3, 738, 744.18, 746.3(b)(1), 750, 758, 762, 772, 774.
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PART 747 – [REMOVED AND RESERVED]

3. Remove and reserve part 747.

PART 748 – [AMENDED]

4. The authority citation for part 748 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

§748.1 – [Amended]

5. Section 748.1 is amended by removing the parenthetical phrase “(other than Special Iraq Reconstruction License applications)” from the first sentence of paragraph (d).

§ 748.7 – [Amended]

6. Section 748.7 is amended by removing the parenthetical phrase “(other than Special Iraq Reconstruction Licenses)” from paragraphs (a) and (d).

PART 762 – [AMENDED]

7. The authority citation for part 762 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

§ 762.2 – [Amended]

8. Section 762.2 is amended by removing and reserving paragraph (b)(17).

Dated: November 23, 2016.

Kevin J. Wolf

Assistant Secretary for Export Administration

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